

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00859R

Parcel No. 292/01737-009-000

Mike Grossman,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 12, 2016. Mike Grossman was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Grossman is the owner of a residential, one-story brick duplex located at 2101 69th Street, Windsor Heights. Built in 1978, it has 2560 square feet of above-grade finish and a full basement. It also has a two-car attached garage, two decks, and an open porch. The site is 0.324 acres. (Ex. A).

The property's January 1, 2015, assessment was \$252,800, allocated as \$43,900 in land value and \$208,900 in improvement value. On his protest to the Board of Review, Grossman claimed the assessment was not equitable as compared with assessments of other like property and was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition. Grossman then appealed to PAAB.

On appeal, it is clear that Grossman's claim is that the property is over assessed and that is the only claim addressed by this Order.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A. Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Grossman purchased the subject property in April 2014 for \$205,000, from an estate. Iowa State Bank acted as the administrator for the estate. The property was listed for \$225,000, and had a price reduction to \$215,000 prior to Grossman's accepted offer. (Appeal). He replaced the roof and installed some new flooring prior to the 2015 assessment. Grossman believes the sale price reflects an arm's-length transaction and is the property's fair market value. Grossman believes this is supported by the fact that the property's sale required approval from the court, and the administrator had a fiduciary responsibility to sell it at fair market value. Grossman also stated he was surprised the assessment went up from \$234,100 in 2013 to \$252,800 in 2015 because it sold for significantly less.

Grossman submitted three offers on the subject property that were lower than his accepted sale price. (Offers 1-3). However, two offers are from 2013, made prior to the property being updated with new carpet, vinyl, main level paint, and the list price for the property being increased. He asserts Offer 3, which was not accepted and occurred in 2014 after the property received updating, was substantially less than the \$225,000 list price. Grossman believes these other offers further support his claim that the sales price reflects the fair market value of the subject.

Interspersed in the Offers Grossman submitted, is a February 2014 cover letter and one page Comparative Market Summary (CMS) prepared by Victoria Swanson of Coldwell Banker Mid AM Group, Altoona. The CMS identifies three properties with list prices ranging from \$175,000 to \$225,000. The portion of the CMS submitted does not provide an opinion of market value, any adjustments, or analysis of the comparable properties. Moreover, Grossman testified that he does not assert the properties identified in the CMS are comparable to his property. We, therefore, give it no consideration.

The Board of Review submitted a list of Sales Condition Codes that the Department of Revenue identifies as sales that may not reflect market value for equalization. (Ex. J). Amy Rasmussen, Director of Litigation in the Polk County Assessor's Office, explained that the subject sold from an estate and for this reason, it is not considered an arm's-length transaction because there are factors that can influence an estate sale resulting in it selling for less than its fair market value. Rasmussen testified the Department of Revenue mandates these types of sales cannot be used when analyzing market data.

The Board also submitted a list of duplex sales that have occurred in Windsor Heights since 2013. (Ex. F). The following chart is a summary of the subject property and those sales.

Address	Sale Date	Sale Price	2015 Assessment	Gross Living Area (GLA)	SP/GLA	AV/GLA
Subject	Apr-14	\$205,000	\$252,800	2560	\$80.08	\$98.75
6401 Lincoln Ave	Sep-15	\$175,000	\$149,300	2322	\$75.37	\$64.30
2021 64th St	Apr-15	\$154,050	\$143,800	1500	\$102.70	\$95.87
1924 63rd St	May-13	\$179,900	\$177,800	2240	\$80.31	\$79.38
6519 Washington Ave	Sep-14	\$217,000	\$188,400	2124	\$102.17	\$88.70
1147 65th St	Sep-14	\$143,000	\$125,800	2030	\$70.44	\$61.97
6721 Northwest Dr	Aug-14	\$184,000	\$151,800	1824	\$100.88	\$83.22
1426 73rd St	May-15	\$180,000	\$160,600	2145	\$83.92	\$74.87
2113 69th St	Mar-16	\$237,500	\$277,500	2295	\$103.49	\$120.92

From this limited evidence, the properties appear generally comparable to the subject in size, age, and grade. While the sales are not adjusted for differences they may possess, as compared to the subject property, none sold for more than the subject property's 2015 assessment. In fact, the overwhelming majority of the sales sold for significantly less. The unadjusted sales prices facially suggest the subject's assessment is not consistent with the sales pattern.

iii. Analysis

Grossman relies on the April 2014 purchase price of the subject property and its listing history to establish its market value. While the purchase price of the property in a normal transaction may be an indication of market value, it alone does not conclusively determine the fair market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). He did not submit any other evidence of the fair market value, such as adjusted comparable property sales, a cost or income analysis, or an appraisal.

The Board of Review argues the subject's sale, as an estate sale, cannot be considered arm's-length and used in determining the assessment. However, we find the Board of Review's reliance on and asserted applicability of the Department of Revenue's equalization list is too limited. The sales listed in Ex. J are not used by the Department in the equalization process under Iowa Code section 441.47. The sales are automatically excluded from *equalization* because the process assumes there are adequate sales available that are definitively arm's-length without the need for verification. However, this list does not render a sale abnormal per se for determining the specific market value of the property for assessment purposes under section 441.21(1)(b). Section 441.21(1)(b) directs that

sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.

In this case, Grossman's purchase of the property through an estate may likewise require adjustment for this factor, or it may not. Without further evidence relating to the nature of the sale or evidence of comparable property sales, it is not possible to draw a conclusion either way.

Moreover, we note Grossman replaced the property's roof and installed some new flooring after purchasing it and before the assessment date, which would likely positively affect its value. Even assuming the sales price accurately reflects the pre-improvement value of the property, we are unable to conclude that it also would reflect

the property's post-improvement value on or about January 1, 2015. Considering all of this, we find the sales price does not sufficiently establish the market value for the subject property as of January 1, 2015. Absent other evidence of the property's fair market value in the record, we conclude there is insufficient evidence to establish the subject is assessed for more than authorized by law.

Order

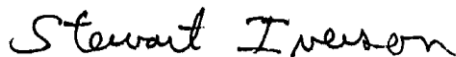
Having concluded that Grossman has not shown his property is over assessed, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 6th day of September, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Mike Grossman by eFile

Mark Taylor by eFile